

noted, 08/18/2010

SMH

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Re: Application of: **Stefan Oliver CZERNER**
Serial No.: 10/556,644 Confirmation No.: 8517
Filed: January 12, 2006
For: **METHOD FOR HEATING COMPONENTS**
Art Unit: 3742
Examiner: Samuel L. Heinrich
Customer No.: 23280
Atty. Docket: 5038.1018
Customer No.: 23280

Mail Stop: APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 8, 2010

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. §41.41

Sir:

Appellants submit this Reply Brief for consideration of the Board of Patent Appeals and Interferences (the “Board”) in response to the Examiner’s Answer dated May 11, 2010 and in support of their appeal of the Final Rejection dated July 8, 2009. Appellants respectfully reassert each of the arguments asserted in Appellants’ Brief dated February 4, 2010, and provide herein only a rebuttal of several of the arguments raised in the Examiner’s Answer. No fee is believed required. If any fee is required at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

ARGUMENTS

The following additional remarks are submitted for consideration by the Board under 37 CFR §41.41.

Claim 11

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over applicants' admitted prior art (APA) in view of JP 58-106836 (Aoshima et al.) in view of U.S. Patent No. 4,539,462 (Plankenhorn).

Claim 11 recites a method for processing one or more components of gas turbines, comprising:

heating a component of a gas turbine with at least one laser device; and

laser hardfacing the component with a separate laser device, the heating occurring prior to and/or during the laser hardfacing.

In addition to the arguments presented previously for all claims, the Examiner's Answer still does not clearly address the claim language or the proposed modification in any specific manner, as required by MPEP 2141.

APA teaches at most heating a component of a gas turbine and hardfacing the component, see [0003] of the present specification.

There simply is no explanation as required by MPEP 2141 as to modifying either or both of these steps to provide the claimed language, whether in view of Aoshima or Plankenhorn. The Appeal Brief addresses all of the grounds for reversal.

As a further specific comment in reply, the Examiner has not disputed the Applicant's definition of hardfacing as "to apply a layer of hard abrasive-resistant metal to a less resistant metal part by plating, welding, spraying or other techniques." Neither Aoshima nor Plankenhorn teach laser application of a hard abrasive-resistant metal to a less resistant metal part at all, and the Examiner once again fails to state any reasoning with regard to this limitation other than to state "it is not convincing." See Examiner's Answer at Page 8. Nor is there any motivation given by the Examiner to modify the hardfacing of the APA to laser hardfacing, and certainly not with a separate laser. The Examiner's Answer states "simultaneous use of both preheat and heating beams is known and provides rapid processing" but there is no indication or teaching that the hardfacing of the APA need be laser hardfacing, or that there is any advantage to providing laser hardfacing to the APA.

Withdrawal of the rejection of all claims 11 to 21 under 35 U.S.C. 103(a) is respectfully requested.

Claim 16: Argued Separately

Claim 16 was rejected under 35 U.S.C. §103(a) as being unpatentable over applicants' admitted prior art in view of Aoshima et al. in view of Plankenhorn, in view of Duley et al., and in view of Tada and further in view of Miyamoto.

The Examiner's assertion at page 8 of the Examiner's Answer that "use of adjustment of the angle of incidence is well known" is simply unsupported, and certainly not true in the present context. Moreover, the reasoning that "[a]djusting angle of incidence for plural lasers does not impart patentability" is simply conclusory and does not address the claim language.

For this reason as well, withdrawal of the rejection to claim 16 under 35 U.S.C. 103(a) is respectfully requested.

Favorable consideration of this Appeal and Reply Brief is respectfully requested.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: _____
Cary S. Kappel, 36,561

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018
Tel: (212) 736-1940
Fax: (212) 736-2427